THE HONOURABLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.26139 of 1999

DATED: 20.04.2007

Between:

K.Kalyani (minor) and others. .. Petitioners.

And

A.P.State Electricity Board,
rep. by its Secretary,
Vidyutsoudha, Khairatabad,
Hyderabad, and others. .. Respondents.

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ORDER:

Aggrieved by the inaction of the respondents in awarding Rs.8,43,186/- towards compensation to the petitioner no.1, whose right hand was amputated due to electrocution, the petitioners approached this Court.

2. Facts, in brief, are that the petitioner no.2 is the father and petitioner no.3 is the mother of petitioner no.1, who is aged about 4 years. On 21.05.1997 when petitioner no.1 along with other children went to roof of the house of the respondent no.3 for playing, accidentally, she came into contact with a live overhead 11 K.V. high voltage electric lines passing over the roof of the said house and suffered severe burns and due to shock, she fell unconscious. While so, when she was admitted in the Medwin Hospital, due to electrocution and severe burns, her right hand was removed. Accordingly, a case in Cr.No.180 of 1997 was registered against the respondents. Subsequently, on examination of the spot by the Electrical Engineers, it is revealed that 11 K.V. high tension electric line is passing over the building of the third respondent and the location of this line is very close to the house, and that there is gross violation of the Rules, framed in exercise of the powers conferred by Section 37 of the Indian Electricity Act, 1910 (for short 'the Act'). It is further stated that the petitioners incurred Rs.41,186/- towards hospital

charges and Rs.27,500/- towards dressing, medication, traveling and other miscellaneous expenses. Finally, a notice was issued to respondent Nos.1 and 2 calling upon them to pay the compensation to the petitioner no.1, but there was no response from their side. Hence, the writ petition.

3. Repelling the averments made in the affidavit, the respondents No.1 and 2 filed a counter affidavit, *inter alia*, contending that the said negligence cannot be attributed to them. They further stated that there was 53 days delay in giving the complaint to the police. It is the case of the respondents that the main feeder line was laid about 20 years back and there were no houses or residential area in the vicinity of the line and the electric line constructed was well on par with the standards set out in Chapter-VIII of the Rules framed in exercise of powers conferred by Section 137 of the Act. Further, it is submitted that the construction of the house was made by the respondent no.3 without any permission from Gram Panchayat and electricity department violating the Rules in vogue and that allowing a child (now aged about 4 years), who was aged about 2 ½ years (may be walking at that time) to play on the top of the house with other children without taking minimum care either by the parents or the house owner shows the gross irresponsibility on their part. It is further stated that there is no gross negligence on their part and they have not violated the fundamental rights under Article 21 of the Constitution of India. Further, the final report dated 10.09.1997 reveals that there is no fault on the part of the electricity department, as such, they are not liable to pay any compensation to the petitioner. They also contend that recovery of damages is in the realm of Civil Law and within the jurisdiction of the Civil Courts and that the compensation claimed by the petitioners to a tune of Rs.8,42,186/- is

highly excessive and the petitioners are not entitled for the compensation as claimed by them.

4. Heard the counsel on either side.

5. The learned Counsel for the petitioners has drawn my attention to the judgment reported in **PARVATI DEVI AND OTHERS V. COMMISSIONER OF POLICE, DELHI AND OTHERS**[1]**.** The factual matrix in **PARVATI DEVI's** case referred supra is almost similar to the case on hand. In the said case, the husband of Parvati Devi died on account of electrocution while walking on the road and the Supreme Court had gone to the extent of holding that when once the death was solely on account of electric shock and the same is established, necessarily the authorities concerned shall be held to be negligent and therefore the appellant therein was awarded Rs.1 lakh towards compensation to be paid within 3 months from the date of the order with an interest at 12% per annum.

6. Following the view taken by the Apex Court in the judgment referred supra (Parvati Devi) and in the facts and circumstances of the case, this Court awards an amount of Rs.25,000/- (rupees twenty five thousands only) towards compensation to the petitioners.

7. The writ petition is accordingly disposed of and it is made clear that the petitioners can exhaust the other remedies that are left open to them. No costs.

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(GOPALA KRISHNA TAMADA,J)

20.04.2007
vv

[1] (2000) 3 SCC 754